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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/071,497	02/08/2002	Creg G. Bradley	000618-1046-999	1834

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EXAMINER

ZIRKER, DANIEL R

ART UNIT PAPER NUMBER

1771

DATE MAILED: 09/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

Applicant(s)

Examiner

Group Art Unit

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE -3- MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☒ Responsive to communication(s) filed on 6/18/03
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-45 is/are pending in the application.
- ☐ Of the above claim(s) is/are withdrawn from consideration.
- ☐ Claim(s) is/are allowed.
- ☒ Claim(s) 1-45 is/are rejected.
- ☐ Claim(s) is/are objected to.
- ☐ Claim(s) are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☒ The drawing(s) filed on 2/8/02 is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
 - ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s) _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

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1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 1-45 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 is, upon reconsideration, believed vague and indefinite because no specific order of the three layers has been set forth, such as in claims 43 and 44. The Examiner again repeats that in claims 5 and 7 it is proper to put --further-- before "comprises". Additionally, it is further noted that in claims 37-41 and 43 (two places) "assembly" lacks antecedent basis and should be cancelled. Also, claim 44 in its present form lacks process steps and in claim 42 the phrase "coated side of the release liner into the uncoated side of the release liner" lacks proper antecedent basis for the various sides of the release liner.

3. Claims 1-45 are rejected under 35 U.S.C. § 103(a) as being unpatentable over either Nienaber et al., or Narayanan, each taken individually for claims 1-43 and 45, or alternatively in view of either Franey or McCarty et al. for claims 1-45, substantially for the reasons set forth in paragraph No. 4 of Paper No. 3, together with the following additional observations. With respect to applicant's remarks concerning the rejections

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based upon either Nienaber et al. or Narayanan taken individually, the Examiner can only repeat that radiation curing of the masking layer or the pressure sensitive adhesive layer is believed to be well known in this technically sophisticated art. Additionally, with respect to applicant's arguments that the Examiner has not shown that the reference will exhibit properties like those of the radiation cured layer of the present invention (Response, page 10, first complete paragraph, and page 10, bottom paragraph) the Examiner can only repeat that with respect to product-by-process claims it is applicant, not the Examiner who bears the burden of distinguishing the claimed invention from those embodiments set forth in the references once a proper prima facie case has been set forth. With respect to the rejections based upon the prior art combinations, the Examiner notes that applicant appears not to fully appreciate the fact that the secondary references are relied upon only for a teaching that radiation curing for such elements as the pressure sensitive adhesive layer is both highly desirable and also can eliminate such problems as the use of solvents and their associated handling and pollution problems. Applicant's remarks against the secondary references do not address either this fundamental issue, or question the motivation for the various combinations, but appear only to argue various elements in the references which

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have not been relied upon by the Examiner. In summary, applicants have failed to rebut the prima facie case of record.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Zirker whose telephone number is (703) 308-0031. The examiner can normally be reached on Monday-Thursday from 8:30 A.M. to 6:00 P.M. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris, can be reached on (703) 308-2414. The fax phone number for this Group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

Dzirker:cdc

August 26, 2003

DANIEL ZIRKER
PRIMARY EXAMINER
GROUP 1800-
1700

Daniel Zirker